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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	<b>CASE NO. 23-CR-355 SI</b>
	)	
Plaintiff,	)	<b>UNITED STATES' SENTENCING</b>
	)	<b>MEMORANDUM</b>
v.	)	
	)	
JORGE RODAS SALGUERO,	)	Court: Hon. Susan Illston
	)	Hearing Date: January 17, 2025
Defendant.	)	Hearing Time: 11:00 A.M.

**I. INTRODUCTION**

The Defendant, Jorge Rodas Salguero, is a professional drug dealer who has repeatedly been removed from the United States, illegally re-entered, and dealt deadly drugs like fentanyl to the people of San Francisco. On September 27, 2023, the Defendant was observed dealing drugs in the Tenderloin District. Upon his arrest, he was found to have 205.2 grams of fentanyl, 33.628 grams of heroin, and 37.9 grams of methamphetamine. He has plead guilty to one count of Possession with Intent to Distribute Fentanyl and one count of Possession with Intent to Distribute Methamphetamine.

The Defendant has a long criminal history, including four federal convictions for illegal re-entry, and several state convictions for drug trafficking. Between his convictions, prison terms, and removals, the Defendant has repeatedly been arrested. The Defendant has been a professional drug trafficker for at

1 least fifteen years and has repeatedly illegally entered the United States to deal drugs. The Defendant's  
2 criminal behavior occurred while he was either on state probation or federal supervised release.

3 The Defendant has never been amenable to supervision and the community has been in peril during  
4 periods when he has not been in custody. When he is not in custody, he is out on the streets of San  
5 Francisco dealing deadly drugs. Because his prior convictions have failed to deter additional criminal  
6 conduct, a substantial custodial sentence is necessary to hold the Defendant accountable and protect the  
7 community. Continued supervision is necessary to ensure that after the Defendant is released, he is  
8 accountable to the U.S. Probation Office. Therefore, the government recommends a sentence of 144  
9 months' incarceration followed by three years of supervised release.

## 10 **II. BACKGROUND**

### 11 **A. The Defendant Deals Deadly Substances in the Tenderloin**

12 On September 27, 2023, agents with the Federal Bureau of Investigation ("FBI") and Drug  
13 Enforcement Administration ("DEA") observed the Defendant near the intersection of 7th and Mission  
14 Streets conducting numerous hand-to-hand drug sales over the course of one hour. *See* Dkt. No. 60  
15 Presentence Report ("PSR") ¶ 7. The Defendant was also observed engaging in counter-surveillance  
16 tactics, such as pacing up and down the same street over a period of time, and frequently looking around  
17 as if on the lookout for police or rival drug dealers. *Id.* The Defendant was ultimately arrested, and a  
18 search of his person and bags he was carrying, revealed large distribution quantities of fentanyl,  
19 methamphetamine, and heroin. A DEA lab report confirmed a net weight of 205.2 grams of fentanyl,  
20 33.628 grams of heroin, 10 grams of methamphetamine at 97% purity and 27.9 grams of  
21 methamphetamine at 98% purity. *Id.* Upon arrest, the Defendant made a veiled threat at an agent,  
22 stating, "people like me always get out." *See* PSR ¶ 8.

23 The Defendant was arrested dealing drugs, including fentanyl, in the Tenderloin in September  
24 2023, at the height of a record-breaking summer in San Francisco in terms of overdose deaths. There  
25 were approximately 810 accidental overdose deaths in 2023—a morbid record—with 79 overdose  
26 deaths occurring in July, and 88 in August. *See* Dkt. No. 32 (Decl. of Ivana Djak ("Djak Decl.") Ex. A,  
27 at ¶ 7 (Decl. of Braden Lyons ("Lyons Decl.")). In September 2023, the 7th and Mission/Market Street  
28 corridor, where the Defendant was dealing, was particularly active with drug trafficking. *Id.* at ¶ 7; Dkt.

No. 32 (Djak Decl. Ex. B, at ¶ 3 (Decl. of Christopher Quiroz (“Quiroz Decl.”)). Federal Protective Services, the agency that provides security for the two federal buildings located in the Tenderloin, increased their patrol at the intersection of 7th and Mission Streets in response to a surge in fentanyl dealing and violent crime. Quiroz Decl. at ¶ 5. Workers at one of the federal buildings were advised to telework due to the safety concerns arising from the sale and use of fentanyl around the site. *Id.*

#### **B. The Defendant’s Long Criminal History of Drug Trafficking and Illegal Re-Entry**

The Defendant has a long criminal history, including four federal convictions for illegal re-entry, and several state convictions for drug trafficking. The Defendant has been a professional drug trafficker for at least fifteen years and has repeatedly illegally entered the United States to deal drugs.

In April 2009, the Defendant was convicted in San Francisco County Superior Court of transporting or selling narcotics and sentenced to 39 days in prison and three years of probation. *See* PSR ¶ 25. This conviction involved the Defendant selling cocaine base to an undercover officer. *Id.*

In December 2009, the Defendant was convicted in San Francisco County Superior Court of solicitation—specifically, he attempted to sell cocaine base to an undercover officer. *See* PSR ¶ 26. He was sentenced to 93 days in prison. *Id.*

In April 2011, the Defendant was again convicted in San Francisco County Superior Court of transporting or selling narcotics and sentenced to six months in prison and three years of probation. *See* PSR ¶ 27. This conviction also involved the Defendant selling cocaine base to an undercover officer. *Id.*

In July 2011, the Defendant was removed from the United States to Honduras but was found in San Francisco again in January 2012. *See* PSR ¶ 28.

In April 2012, the Defendant was convicted of illegally re-entry in violation of 18 U.S.C. § 1326 in this District, and sentenced to 24 months in prison, and three years of supervised release. *See* PSR ¶ 28. The Defendant’s supervision was transferred to the District of Utah. *Id.*

The Defendant was removed from the United States in October 2013, but was found in Utah again in August 2014. *See* PSR ¶ 29.

In March 2015, the Defendant was again convicted of illegally re-entry in violation of 18 U.S.C. § 1326 in the District of Utah, and sentenced to 24 months in prison, and three years of supervised release. *See* PSR ¶ 29.

1 The Defendant was again removed from the United States in June 2016, and was found in the  
2 District of Utah in March 2017. *See* PSR ¶ 30.

3 In August 2017, the Defendant was again convicted of illegally re-entry in violation of 18 U.S.C.  
4 § 1326 in the District of Utah, and sentenced to 27 months in prison, and three years of supervised  
5 release. *See* PSR ¶ 30.

6 After serving his sentence in Utah, the Defendant left the United States, was denied reentry in  
7 Texas in March 2020, but then was again found in the United States in August 2020. *See* PSR ¶ 31.

8 In March 2021, the Defendant was again convicted of illegally re-entry in violation of 18 U.S.C.  
9 § 1326 in the District of Arizona, and sentenced to 30 months in prison, and three years of supervised  
10 release. *See* PSR ¶ 31. The Defendant was on supervised release in the District of Arizona when he was  
11 arrested in this case. *Id.*

12 Between his convictions and terms of incarceration, the Defendant has been arrested multiple  
13 times, including for evading law enforcement officers, drunk driving, and smuggling controlled  
14 substances into jail. *See* PSR ¶¶ 35–40. His evasive behavior included swallowing suspected bags of  
15 heroin. *See* PSR ¶ 35.

### 16 **III. PROCEDURAL HISTORY**

17 On September 28, 2023, the Defendant was charged by Complaint, Dkt. No. 1, and on October  
18 11, 2023, he was indicted on one count of Possession with Intent to Distribute Fentanyl (Count One) in  
19 violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), and one count of Possession with Intent to Distribute  
20 Methamphetamine (Count Two) in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), Dkt. No. 12. On  
21 October 13, 2023, the Magistrate Judge ordered the Defendant detained. Dkt. No. 11.

22 On March 29, 2024, the Defendant moved to suppress the evidence seized from his person and  
23 bags on September 27, 2023. Dkt. No. 31. On May 10, 2024, the Court held a suppression hearing, and  
24 denied the Defendant's Motion. Dkt. No. 35.

25 On August 16, 2024, jurisdiction over the Defendant's supervised release was transferred from  
26 the District of Arizona to this District. *See* Case No. 24-CR-464 MMC, Dkt. No. 1. A Form 12 Petition  
27 for Revocation that was filed against the Defendant in the District of Arizona on August 9, 2024, was  
28 also transferred. *See* Case No. 24-CR-464 MMC, Dkt. Nos. 2. The basis of the Form 12 was primarily

the September 27, 2023 conduct charged in the instant case, along with a September 18, 2023 drunk driving arrest and the related smuggling of drugs into jail. *Id.* The Defendant was arraigned on the Form 12 in this District on August 16, 2024. *See* Case No. 24-CR-464 MMC, Dkt. Nos. 3.

On September 9, 2024, the instant case and the Form 12 case were related. *See* Case No. 23-CR-355 SI, Dkt. No. 57; Case No. 24-CR-464 MMC, Dkt. No. 10.

On October 11, 2024, the Defendant entered an open plea of guilty to both counts in the Indictment and admitted to the related Form 12 violations. *See* Case No. 23-CR-355 SI, Dkt. Nos. 58, 59; Case No. 24-CR-464 MMC, Dkt. No. 11.

Sentencing on both the Indictment and Form 12 is set for January 17, 2025 at 11:00 a.m.

#### **IV. SENTENCING GUIDELINES CALCULATION**

The government agrees with Probation's guideline calculations. The calculation is as follows:

- a. Possession with Intent to Distribute (base offense level 30 (U.S.S.G. § 2D1.1(c)(5))).

There are no specific offense characteristics. PSR ¶ 14.

A two-level deduction for Acceptance of Responsibility pursuant to U.S.S.G. § 3E1.1, results in an Adjusted Offense Level of 28. PSR ¶ 14. An additional point deduction is not appropriate because the government engaged in extensive briefing in response to the Defendant's motion to suppress. The Defendant's intention to plead guilty did not become clear for months thereafter, during which time the government continued to expend resources prosecuting this case.

Accordingly, the final Adjusted Offense Level is 28. The Defendant's criminal convictions result in a criminal history category of VI. PSR ¶ 34. This results in a guideline range of 140 to 175. PSR ¶ 61.

#### **V. APPLICABLE LAW**

The Court should impose a sentence sufficient, but not greater than necessary, to reflect the purposes of sentencing that Congress identified in 18 U.S.C. § 3553(a)(2). *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008). The Court should begin the process of determining an appropriate sentence by calculating the correct sentencing range under the Guidelines. *Id.* After determining the appropriate Guidelines calculation, the Court should then evaluate the sentence for substantive reasonableness in light of the factors set out in Section 3553(a). *Id.* at 991–93.

Under 18 U.S.C. § 3553(a), in arriving at the appropriate sentence for the defendant, the Court should consider these factors applicable to this case, among others:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (3) the need for the sentence imposed to afford adequate deterrence to criminal conduct;
- (4) the need for the sentence to protect the public from future crimes of the defendant;
- (5) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (6) the need to provide restitution to any victims of the offense.

#### **VI. RECOMMENDED SENTENCE AND SECTION 3553(a) FACTORS**

Based upon a consideration of the Sentencing Guidelines and the factors set forth in 18 U.S.C. § 3553(a), the government respectfully recommends a custodial sentence of 144 months to be followed by a three-year term of supervised release, which represents a sentence at the low end of the guideline range, but is the most significant sentence the Defendant will have received to date, and reflects the gravity of his conduct in this case and his unabated recidivism.

The nature and circumstances of the Defendant's offense are serious. Law enforcement observed the Defendant dealing drugs in the Tenderloin District of San Francisco in September 2023, at the height of a fentanyl overdose epidemic in this city. Upon his arrest, he was found to have large quantities of deadly drugs: 205.2 grams of fentanyl, 33.628 grams of heroin, and 37.9 grams of methamphetamine. And he was found dealing drugs in the Tenderloin after having been repeatedly removed from the United States.

The present case is the Defendant's fifth federal conviction. He has been convicted of illegal re-entry on four separate occasions and has been in federal custody or on federal supervision since 2012. Despite repeated removals from the United States, he illegally re-enters after each deportation. The Defendant also has several state drug trafficking convictions dating back to 2009. In other words, the

1 Defendant has been dealing drugs in San Francisco for over 15 years. Between his various convictions,  
2 he has been repeatedly arrested. The Defendant has demonstrated that, when he is out of custody, he  
3 will find a way to illegally re-enter the United States, come to San Francisco, and resume his drug  
4 trafficking business. The only thing that can protect the community is a lengthy prison sentence.

5 The Defendant has previously been sentenced to federal prison terms of 24 months, 24 months,  
6 27 months, and 30 months, and his federal supervised release has also repeatedly been revoked. But the  
7 Defendant has been undeterred—he continues to illegally re-enter and to deal drugs. A substantial term  
8 of incarceration is required to keep the community safe and to deter the Defendant from engaging in  
9 further criminal conduct—his shorter sentences have not protected the community or deterred him.

10 Accordingly, the government recommends a term of incarceration of 144 months, representing  
11 the longest term the Defendant will have served—but also representing a sentence at the low end of the  
12 guideline range in this case. Probation recommends a significant downward variance to 96 months  
13 because the Defendant grew up in a volatile home and in poverty in Honduras, and because his offenses  
14 are “nonviolent.” *See* PSR, Sentencing Recommendation. The government is sympathetic to the  
15 difficulty of growing up in poverty in Honduras—but Probation discounts the significant damage and  
16 chaos drug traffickers like the Defendant have wrought on San Francisco. And the Defendant is not just  
17 any drug trafficker—he is a drug trafficker the United States government has removed repeatedly. All  
18 attempts to protect the community from the Defendant’s drug trafficking and to remove him from this  
19 country have failed—he is undeterred. That the Defendant grew up in poverty is not an excuse for a 15-  
20 year criminal rampage. A lengthy prison sentence is necessary.

21 The government’s recommendation of a custodial sentence of 144 months imprisonment takes all  
22 the above factors into account. A lengthy sentence is necessary to protect the public from an individual  
23 who has thus far made a lifestyle of flouting the law. A 144-month sentence followed by three years of  
24 supervised release is sufficient, but not greater than necessary, to comply with the purposes of 18 U.S.C.  
25 § 3553.

26 The government also recommends that any term of imprisonment imposed on the supervised  
27 release violations run consecutively to the sentence imposed in the instant case, to reflect the separate and  
28 severe nature of the Defendant’s long history of continuous unabated violations of supervised release

1 conditions and Court orders.

2 The government also requests that the Court impose the following suspicionless search  
3 condition:

4 The defendant shall submit his person, residence, office, vehicle, electronic devices and  
5 their data (including cell phones, computers, and electronic storage media), and any  
6 property under defendant's control to a search. Such a search shall be conducted by a  
7 United States Probation Officer or any federal, state, or local law enforcement officer at  
any time, with or without suspicion. Failure to submit to such a search may be grounds for  
revocation; the defendant shall warn any residents that the premises may be subject to  
searches

8 This search condition is warranted given the Defendant's significant criminal history, numerous  
9 violations of criminal supervision, and the risk that he will reoffend. It is necessary to deter the  
10 Defendant's criminal conduct, allow detection of any criminal conduct he engages in, and to encourage  
11 his rehabilitation. *See United States v. Cervantes*, 859 F.3d 1175, 1184 (9th Cir. 2017). Further, given  
12 the ubiquity of smartphones and electronic devices in today's world, if the Defendant chooses to rearm  
13 himself with a firearm, he likely will use an electronic device in furtherance of such criminal conduct.  
14 Thus, the search condition should also apply to electronic devices.

15  
16 DATED: January 10, 2025

Respectfully submitted,

17  
18 United States Attorney

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20 /S/  
21 IVANA DJAK  
22 Assistant United States Attorney  
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